

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PEDRO DOMINGUEZ,

Plaintiff,

- against -

B S SUPERMARKET, INC., EDDY L.
FERNANDEZ, and JOHN DOE,

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**
13-CV-7247 (RRM) (CLP)

By a motion filed May 13, 2014, plaintiff moved for a default judgment. On May 29, 2014, this Court referred the matter to the assigned Magistrate Judge, the Honorable Cheryl L. Pollak. Magistrate Judge Pollak held an inquest hearing on July 24, 2014, at which the defendants failed to appear. On March 5, 2015, Magistrate Judge Pollak issued a Report and Recommendation (“R&R”) recommending that this Court (1) grant plaintiff’s motion for default judgment; (2) award plaintiff \$142,196.32 in damages, consisting of: \$55,192.50 in unpaid overtime wages; \$57,713.91 in liquidated damages; \$2,500 for failure to provide statements required under the New York law; \$11,433.50 in attorney’s fees, \$475.15 in costs; and \$14,881.26 in prejudgment interest; (3) grant plaintiff’s motion to voluntarily dismiss the John Doe defendant from the action; and (4) order the defendants to pay plaintiff post-judgment interest, to be calculated from the date the Clerk of Court enters judgment in this action until the date of payment, using the federal rate set forth in 28 U.S.C § 1961.

Magistrate Judge Pollak reminded the parties that, pursuant to Fed. R. Civ. P. 72(b), any objections to the R&R were due within fourteen (14) days of its receipt. (Doc. No. 27 at 34.) Magistrate Judge Pollak directed the Clerk of Court to send copies of R&R to the parties “either

electronically through the Electronic Case Filing (ECF) system or by mail.” (*Id.* at 35.) On March 6, 2015, the Clerk certified that a copy of the R&R had been mailed to Eddy L. Fernandez and B S Supermarket, d/b/a Clarimar Supermarket, at 4118 3rd Avenue, Brooklyn, NY 11232. As of this date, no party has filed any objections.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, the Court has reviewed the R&R for clear error. Noting the thorough review that Magistrate Judge Pollak performed of plaintiff’s claims and affidavits, her careful calculations of the damages to be awarded to plaintiff, and the inquest hearing that she held to assess damages, which prompted plaintiff to supplement his papers, the Court finds no clear error in the R&R. It concurs with and adopts Magistrate Judge Pollak’s R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

CONCLUSION

Accordingly, plaintiff’s motion for default judgment is GRANTED, plaintiff’s motion to voluntarily dismiss the John Doe defendant from the action is GRANTED, and it is hereby

ORDERED that plaintiff be awarded a total of \$142,196.32, consisting of: \$55,192.50 in unpaid overtime wages; \$57,713.91 in liquidated damages; \$2,500 for failure to provide statements required under the New York law; \$11,433.50 in attorney’s fees, \$475.15 in costs; and \$14,881.26 in prejudgment interest; and that defendants B S Supermarket, Inc. and Eddy L. Fernandez pay post-judgment interest.

The Clerk of Court is directed to enter Judgment accordingly, transmit copies of this Order and the accompanying Judgment to each of the two defendants via U.S. Mail at the following address: B S Supermarket, d/b/a Clarimar Supermarket, 4118 3rd Avenue, Brooklyn, NY 11232. The Clerk of Court is further directed to close this case.

SO ORDERED.

Dated: Brooklyn, New York
March 27, 2015

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge